



**UNITED STATES DEPARTMENT OF COMMERCE
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HB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/106,825	06/29/98	ARMSTRONG	B

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MM42/0624

EXAMINER

EASTHOM, K

ART UNIT

PAPER NUMBER

2832

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DATE MAILED: 06/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/106,825

Applicant(s)

Armstrong

Examiner

Karl Easthom

Group Art Unit

2832



☒ Responsive to communication(s) filed on Apr 3, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-11 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-6, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kambic (IBMTDB). Kambic discloses the claimed invention at the sole figure.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kambic (IBMTDB) in view of Fujita. Kambic discloses the claimed invention at the sole figure except for conductive elements exposed at least in part external of a housing and except for a housing of nonconductive plastics as regards claim 4. Fujita discloses the claimed housing 5,9 and terminals 4, 4' in Figs. 1-3 for the purpose of avoiding shock and providing electrical access. The housing is plastic where it is so hatched. It would have been obvious in view of Fujita to employ the nonconductive plastics housing and exposed terminals in the Kambic device for the purpose of avoiding shock and providing electrical access.

5. Applicant's arguments filed 4/30/99 have been fully considered but they are not persuasive. Applicant argues that the Kambic device does not have "clicking" although it "may". This is not

germane where the item is not claimed. Further, some sound would be made however slight. Tactile feedback is obtained, for example, by the return of the spring when it is not depressed. Item 8 in cross section is a dome cap as also seen in applicant's figures. Applicant argues that the material of Kambic only conducts when it is compressed such that it is not "analog". There is no rubber material that is entirely digital, or purely "on-off", such that there is some transition that is not a straight line. Applicant is arguing one of degree but the claims do not differentiate the degree, nor does the specification provide any terms of degree for defining the variable material. For example, the Mithcell device identified by applicant in his specification at page 3 as a variable conductance device, discloses at Fig. 7, what arguably may be termed "digital" or on off devices at curves 29' and 29, with more analog devices in between. However, even curves 29 and 29' disclose some variance over pressure, at least at the tails, if not at the transition also to some extent. Further, applicant has not claimed "analog" and has not specified any curve, and the claimed invention appears to embrace all the Mitchell curves without distinction.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703) 308-3306. The examiner can normally be reached on M-Th from 6:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Gellner, can be reached on (703) 308-1721. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1721.


KDE 6/19/99



Michael L. Gellner
Supervisory Patent Examiner
Technology Center 2800